

SAN BENITO COUNTY ASSESSMENT PRACTICES SURVEY

MARCH 2009

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March 30, 2009

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No. 2009/015

TO COUNTY ASSESSORS:

SAN BENITO COUNTY
ASSESSMENT PRACTICES SURVEY

A copy of the San Benito County Assessment Practices Survey Report is enclosed for your information. The Board of Equalization (BOE) completed this survey in fulfillment of the provisions of sections 15640-15646 of the Government Code. These code sections provide that the BOE shall make surveys in each county and city and county to determine that the practices and procedures used by the county assessor in the valuation of properties are in conformity with all provisions of law.

The Honorable Tom J. Slavich, San Benito County Assessor, was provided a draft of this report and given an opportunity to file a written response to the findings and recommendations contained therein. The report, including the assessor's response, constitutes the final survey report which is distributed to the Governor, the Attorney General, and the State Legislature, and to the San Benito County Board of Supervisors and Grand Jury.

Fieldwork for this survey was performed by the BOE's County-Assessed Properties Division from March through August 2007. The report does not reflect changes implemented by the assessor after the fieldwork was completed.

Mr. Slavich and his staff gave their complete cooperation during the survey. We gratefully acknowledge their patience and courtesy during the interruption of their normal work routine.

These survey reports give government officials in California charged with property tax administration the opportunity to exchange ideas for the mutual benefit of all participants and stakeholders. We encourage you to share with us your questions, comments, and suggestions for improvement.

Sincerely,

/s/David J. Gau

David J. Gau
Deputy Director
Property and Special Taxes Department

DJG:ps
Enclosure

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INTRODUCTION

Although county government has the primary responsibility for local property tax assessment, the State has both a public policy interest and a financial interest in promoting fair and equitable assessments throughout California. The public policy interest arises from the impact of property taxes on taxpayers and the inherently subjective nature of the assessment process. The financial interest comes from the fact that more than one-half of all property tax revenue is used to fund public schools and the State is required to backfill any shortfalls from that property tax funding.

The assessment practices survey program is one of the State's major efforts to address these interests and to promote uniformity, fairness, equity, and integrity in the property tax assessment process. Under this program, the State Board of Equalization (BOE) periodically reviews the practices and procedures of (surveys) every county assessor's office. This report reflects the BOE's findings in its current survey of the San Benito County Assessor's Office.

The assessor is required to file with the board of supervisors a response that states the manner in which the assessor has implemented, intends to implement, or the reasons for not implementing the recommendations contained in this report. Copies of the response are to be sent to the Governor, the Attorney General, the BOE, and the Senate and Assembly; and the San Benito County Board of Supervisors and Grand Jury. That response is to be filed within one year of the date the report is issued and annually thereafter until all issues are resolved. The Honorable Tom J. Slavich, San Benito County Assessor, elected to file his initial response prior to the publication of our survey; it is included in this report following the Appendixes.

While typical management audit reports emphasize problem areas, they say little about operations that are performed correctly. Assessment practices survey reports also tend to emphasize problem areas, but they also contain information required by law (see *Scope of Assessment Practices Surveys*) and information that may be useful to other assessors. The latter information is provided in the hope that the report will promote uniform, effective, and efficient assessment practices throughout California.

SCOPE OF ASSESSMENT PRACTICES SURVEYS

Government Code sections 15640 and 15642 define the scope of an assessment practices survey. As directed by those statutes, our survey addresses the adequacy of the procedures and practices employed by the assessor in the valuation of property, the volume of assessing work as measured by property type, and the performance of other duties enjoined upon the assessor.

In addition, pursuant to Revenue and Taxation Code¹ section 75.60, the BOE determines through the survey program whether a county assessment roll meets the standards for purposes of certifying the eligibility of the county to continue to recover costs associated with administering supplemental assessments. Such certification is obtained either by satisfactory statistical result from a sampling of the county's assessment roll, or by a determination by the survey team—based on objective standards defined in regulation—that there are no significant assessment problems in the county. The statutory and regulatory requirements pertaining to the assessment practices survey program are detailed in Appendix C.

Our survey of the San Benito County Assessor's Office included reviews of the assessor's records, interviews with the assessor and his staff, and contact with officials in other public agencies in San Benito County that provided information relevant to the property tax assessment program. This survey also included an assessment sample of the 2006 assessment roll to determine the average level (ratio) of assessment for all properties and the disparity among assessments within the sample. The ideal assessment ratio is 100 percent, and the minimum acceptable ratio is 95 percent. Disparity among assessments is measured by the sum of absolute differences found in the sample; the ideal sum of absolute differences is 0 percent and the maximum acceptable number is 7.5 percent. If the assessment roll meets the minimum standards for ratio and disparity, the county is eligible to continue to recover the administrative cost of processing supplemental assessments. The sampling program is described in detail in Appendix B.

This report offers recommendations to help the assessor correct assessment problems identified by the survey team. The survey team makes recommendations when assessment practices in a given area are not in accordance with property tax law or generally accepted appraisal practices. An assessment practices survey is not a comprehensive audit of the assessor's entire operation. The survey team does not examine internal fiscal controls or the internal management of an assessor's office outside those areas related to assessment. In terms of current auditing practices, an assessment practices survey resembles a compliance audit—the survey team's primary objective is to determine whether assessments are being made in accordance with property tax law.

¹ Unless otherwise stated, all statutory references are to the California Revenue and Taxation Code.

EXECUTIVE SUMMARY

As stated in the Introduction, this report emphasizes problem areas we found in the operations of the assessor's office. However, it also identifies program elements that we found particularly effective and describes areas of improvement since our last assessment practices survey.

In the 2003 San Benito County Assessment Practices Survey, we made 19 recommendations to address problems in the assessor's policies and procedures. The assessor fully implemented nine of the recommended changes and partially implemented one. Two recommendations are no longer relevant due to changes in BOE policy and the remaining recommendations are repeated in this report.

Between fiscal years 2002-03 and 2006-07, the total assessed value of the San Benito County assessment roll increased 38 percent while during the same period staffing levels remained relatively unchanged. The Honorable Tom Slavich was appointed by the board of supervisors on February 1, 2005, to finish out the remaining term of the Honorable Arnold Fontes.

Many of our recommendations concern programs that are currently effective but need additional improvement. In many instances, the assessor is already aware of the need for improvement and is considering implementing changes as time and resources permit. Currently, the assessor is in the process of replacing his computer system with a new integrated property tax system that coordinates with the functions of the county auditor and tax collector. In addition, the assessor has purchased software for the use of geographic information system (GIS) mapping and has joined other participating agencies in assisting with the implementation of a countywide GIS mapping system.

The assessor's administrative programs, which include budget and staffing, appraiser certification, assessment appeals, and the racehorse administrative tax program, are effectively managed. However, the assessor fails to enroll low-value escape assessments.

Overall, the real property and business property programs are well-managed and most property types are assessed in compliance with statutory provisions. The assessor has an aggressive program to recognize real property declines in value and has been proactive in informing property owners who are likely to qualify for valuation reductions in the current real estate market downturn. The entire clerical staff is located by the front counter, and the assessor and his staff are easily accessible to the public.

The assessor has effective programs for discovering and determining real property changes in ownership and new construction. Both programs constitute a significant portion of his operations. The assessor's mandatory audits are current and the assessment program for business personal property and fixtures, along with leased equipment, vessels, and aircraft, is excellent.

The three most critical recommendations involve the valuation of taxable government-owned properties, taxable possessory interests, and California Land Conservation Act (CLCA) properties. Specifically, the assessor incorrectly establishes the base year value of taxable government-owned properties. He also fails to issue supplemental assessments for taxable possessory interests when they have undergone a change in ownership. Furthermore, the assessor incorrectly identifies certain lease renewals as changes in ownership.

In the valuation of CLCA properties, the assessor continues to use an incorrect income stream and incorrectly includes homesite value when calculating a nonrenewal value. He also uses outdated income and expense data, and incorrectly uses an agricultural land rent when valuing a compatible commercial use site. It should be noted that in San Benito County the assessor is responsible for the complete administration of the CLCA program for the county.

Despite the problems noted above, we found that most properties and property types are assessed correctly.

The San Benito County assessment roll meets the requirements for assessment quality established by section 75.60. Our sample of the 2006-07 assessment roll indicated an average assessment ratio of 99.57 percent, and the sum of the absolute differences from the required assessment level was 0.78 percent. Accordingly, the BOE certifies that San Benito County is eligible to receive reimbursement of costs associated with administering supplemental assessments.

Here is a list of the formal recommendations contained in this report, arrayed in the order that they appear in the text.

RECOMMENDATION 1:	Enroll all escape assessments.	12
RECOMMENDATION 2:	Enroll all supplemental assessments, regardless of change in value.....	13
RECOMMENDATION 3:	Include the factored base year value on the decline-in-value notice, as required by section 619(c).	22
RECOMMENDATION 4:	Improve the California Land Conservation Act assessment program by: (1) using current production, income, and expense data in the annual valuation; (2) documenting expense sources and identifying what is included in expenses; (3) using an appropriate income stream when valuing restricted orchards and vineyards; (4) valuing commercial use portions of restricted property using an economic commercial site rent; and (5) calculating nonrenewal values in accordance with section 428.	26
RECOMMENDATION 5:	Establish base year values for taxable government-owned properties according to BOE guidelines.	28

RECOMMENDATION 6:	Revise the taxable possessory interest assessment program by: (1) enrolling supplemental assessments for changes in ownership of taxable possessory interests, and (2) reappraising taxable possessory interests only for renewal as provided in section 61(b)(2).	29
RECOMMENDATION 7:	Determine and compare adjusted base year values with current market values with respect to mineral properties.	32
RECOMMENDATION 8:	Apply Rule 468 to properties by tracking adjusted base year values of petroleum properties.	33
RECOMMENDATION 9:	Assess manufactured homes at the lesser of fair market value or factored base year value.	39

RESULTS OF 2003 SURVEY

Quality Control

We recommended the assessor more adequately document his appraisal records. The assessor has implemented this recommendation.

Disaster Relief

We recommended the assessor obtain fire reports from local fire protection agencies, and, upon completion of repairs, restoration, or reconstruction, enroll the lesser of full cash value or factored base year value as required by section 170. The assessor has implemented both of these recommendations.

We also recommended the assessor include assessment appeal information on the notice of proposed reassessment as required by section 170(c). The assessor has implemented this recommendation.

Roll Changes

We recommended the assessor provide taxpayers with notice of a proposed escape assessment as required by section 531.8. The assessor has implemented this recommendation. We also recommended the assessor include the section 533 notation for escape assessments on the current year's assessment roll. This recommendation is no longer applicable due to recent legislative changes to section 533.

Declines in Value

We recommended the assessor include the factored base year value on the decline-in-value notice as required by section 619(c). The assessor has not implemented this recommendation; thus, it is repeated in this report.

Change in Ownership

We recommended the assessor reappraise properties owned by legal entities upon a change in control. The assessor has implemented this recommendation.

Supplemental Assessments

We recommended the assessor enroll supplemental assessments for changes in ownership of leasehold improvements. The assessor has implemented this recommendation. We also recommended the assessor enroll all supplemental assessments regardless of change in value and enroll supplemental assessments for changes in ownership of taxable possessory interests. The assessor has not implemented these recommendations; they are repeated in this report.

California Land Conservation Act (CLCA) Properties

In calculating the restricted value of CLCA properties by the capitalization of income method prescribed in section 423, we recommended the assessor deduct from gross rent charges for: (1) the return on, and the return of, any investment in nonliving improvements, and (2) the return of the well value from the income attributable to CLCA property. The assessor is currently using an expense ratio without indicating what expenses are included in the ratio. Since we are unable to determine whether the changes from our prior recommendations are included in this ratio, in this report we recommend the assessor document expenses used in the income approach.

We also recommended the assessor use the appropriate income stream when valuing orchards and vineyards. The assessor has not implemented this recommendation; thus, it is repeated in this report.

Finally, we recommended the assessor exclude homesite values from the restricted value calculations of CLCA properties. The assessor has partially implemented this recommendation, but he continues to include homesite values when calculating nonrenewal values. Thus, we repeat this part of the recommendation.

Taxable Possessory Interests

We recommended the assessor review all private uses at the county fairgrounds to discover any taxable possessory interests. The assessor has implemented this recommendation. We also recommended the assessor reappraise taxable possessory interests upon a change in ownership as required by section 61(b). The assessor has not implemented this recommendation; thus, it is repeated in this report.

Mineral Properties

We recommended that the assessor consider the value of proved reserves and account for any additions or reductions to proved reserves as required by Rule 469(e).² The assessor has not implemented this recommendation; thus, we repeat it in this report.

Audit Program

We recommended the assessor use Assessors' Handbook Section 581 as intended when valuing older machinery and equipment. Although the assessor has not implemented this recommendation, it is not repeated in this report due to a change in BOE guidelines.

Manufactured Homes

We recommended the assessor conduct a study to determine whether site influence affects the selling prices of manufactured homes. The assessor has implemented this recommendation.

² All rule references are to sections of California Code of Regulations, Title 18, Public Revenues.

OVERVIEW OF SAN BENITO COUNTY

San Benito County is located in California's Central Coast region about 90 miles south of San Francisco. Neighboring counties include Santa Clara and Santa Cruz to the north, Merced and Fresno to the east, and Monterey to the west and south.

San Benito County was created from a portion of Monterey County in 1874, with Hollister as the county seat. Due to rapid population growth, the State Legislature expanded the county boundaries, and parts of Merced and Fresno counties were incorporated into San Benito County 13 years later. The county now encompasses 1,396 square miles, or 893,440 acres, and has two incorporated cities, Hollister and San Juan Bautista. As of July 2005, the population of San Benito County was 55,936, an increase of 5.1 percent from April 2000.

The following table displays information pertinent to the 2006-07 assessment roll, including exemptions, as provided by the assessor:

	PROPERTY TYPE	ASSESSMENTS	ENROLLED VALUE
Secured Roll	Residential	14,091	\$4,524,574,564
	Commercial	573	\$402,661,137
	Industrial	251	\$381,041,530
	Agricultural	4,550	\$872,015,791
	Total Secured	19,465	\$6,180,293,022
Unsecured Roll	Personal Property & Fixtures	2,201	\$208,577,602
	Total Assessment Roll	21,666	\$6,388,870,624

The next table illustrates the growth in assessed values for recent years as reported in the BOE's annual reports:

ROLL YEAR	TOTAL ROLL VALUE	INCREASE	STATEWIDE INCREASE
2006-07	\$6,322,015,000	10.0%	12.3%
2005-06	\$5,745,119,000	9.2%	11.1%
2004-05	\$5,261,226,000	7.0%	8.3%
2003-04	\$4,916,458,000	7.3%	7.3%
2002-03	\$4,582,700,000	N/A	N/A

ADMINISTRATION

This section of the survey report focuses on administrative policies and procedures of the assessor's office that affect both the real property and business property assessment programs. The subjects addressed include the assessor's budget and staffing, appraiser certification, assessment appeals, disaster relief, assessment roll changes, exemptions, the racehorse administrative tax, and assessment forms.

Budget and Staffing

As shown in the following table, the assessor's office has benefited from increased budget levels over recent years:

BUDGET YEAR	GROSS BUDGET	CHANGE	PERMANENT STAFF
2006-07	\$1,225,616	+10.54%	14
2005-06	\$1,108,744	+6.13%	14
2004-05	\$1,044,744	-1.56%	14
2003-04	\$1,061,301	+11.36%	14
2002-03	\$953,042	N/A	N/A

The assessor's office is budgeted for 14 employees. At the time of our survey, the number of employees totaled 12 full-time employees and one part-time employee. Staffing included the assessor, assistant assessor, 4.5 real property appraisers, five support staff (including the office manager), and one cadastral mapping specialist. The assistant assessor, who is an auditor-appraiser, is responsible for the business property assessments.

As part of our review of how the assessor maintains the integrity of his assessment roll, we examined his policy regarding the assessment of employee-owned property. Although there is no written policy, it has long been the practice in the San Benito County Assessor's Office that no employee may prepare or influence the assessment of his or her own property. We reviewed the appraisal and business property files for all parcels or accounts owned by current staff of the assessor's office. In every instance, the most recent valuation of the property had been prepared by a certificated employee other than the employee who owned the property.

Appraiser Certification

Section 670 provides that no person shall perform the duties of an appraiser for property tax purposes unless he or she holds a valid certificate issued by the BOE. There are a total of seven certified appraisers on staff, including the assessor.

We found that the assessor and his staff possess the required certificates. Additionally, we found that the auditor-appraiser performing mandatory audits meets the requirements referenced in section 670(d). The assessor does not use contract appraisers.

Assessment Appeals

The assessment appeals function is prescribed by article XIII, section 16 of the California Constitution. Sections 1601 through 1641.5 are the statutory provisions governing the conduct and procedures of assessment appeals boards and the manner of their creation. As authorized by Government Code section 15606, the BOE has adopted Rules 301 through 326 to regulate the assessment appeal process.

The San Benito County Board of Supervisors serves as the county board of equalization and hears all assessment appeals. The five-member board has established rules and procedures for its hearings. The board of supervisors has not adopted a resolution pursuant to section 1603(d) extending the appeals filing period to November 30. Since the assessor properly notifies the clerk of the appeals board and the tax collector by April 1 of each year as to whether or not notices of assessed values of real property on the secured roll will be sent by August 1, the appeals filing period is July 2 to September 15.

The appraiser assigned to the geographic area in which a property under appeal is located generally prepares and presents the assessor's case at the hearing. The assessor or the assistant assessor attends all hearings and provides testimony when necessary.

The following table illustrates the assessor's appeal workload for recent years:

	FISCAL YEAR				
APPEALS	2006-07	2005-06	2004-05	2003-04	2002-03
Total Appeals:					
Applications Received	30	34	39	21	74
Carried Over	48	63	33	67	114
Total	78	97	72	88	188
Resolution:					
Hearing-reduced	0	0	0	0	0
Hearing-increased	0	0	0	0	0
Hearing-upheld	0	7	0	0	3
Stipulation	0	0	0	0	7
Withdrawn	1	42	9	55	111
Other	0	0	0	0	0
Total resolved	1	49	9	55	121
Carried over to next year	Pending	48	63	33	67

All the appeal applications we reviewed were filed timely, and taxpayers were properly notified of their hearing dates. Most appeals were resolved within the required two-year time frame, and waivers were obtained for those that were not. We found the assessor properly administers the assessment appeal program.

Disaster Relief

Section 170 permits a county board of supervisors to adopt an ordinance that allows immediate property tax relief on qualifying property damaged or destroyed by misfortune or calamity. The property tax relief is available to the owner of any taxable property whose property suffers damage exceeding \$10,000 (without his or her fault) in a misfortune or calamity. In addition, section 170 provides procedures for calculating value reductions and restorations of value for the affected property.

To obtain relief under section 170, assesseees must make a written application to the assessor requesting reassessment. Alternatively, if the assessor is aware of any property that has suffered damage by misfortune or calamity; the assessor must provide the last known assessee with an application for reassessment.

Upon receipt of a properly completed application, the assessor shall reassess the property for tax relief purposes. If the sum of the full cash values of the land, improvements, and personal property before the damage or destruction exceeds the sum of the values after the damage by

\$10,000 or more, the assessor shall then determine the percentage reductions in current market value and reduce the assessed values by those percentages.

The assessor discovers instances of disaster or calamity by reviewing newspaper articles and building permits, field canvassing, and taxpayer-initiated contacts.

The San Benito County Board of Supervisors passed a disaster relief ordinance in 1984 and amended it in 2005. This ordinance applies to a misfortune or calamity involving any taxable property, both real and personal. We found the assessor complies with this ordinance.

Assessment Roll Changes

Each year the assessor must complete the local assessment roll and deliver it to the auditor by July 1. Once the roll is delivered to the auditor, any correction that would decrease the amount of the unpaid taxes requires the consent of the board of supervisors. All changes to the roll are authorized by specific statutes, and any roll change must be accompanied by the appropriate statutory reference.

Assessment roll changes fall under two general categories: escape assessments and corrections. An escape assessment is an assessment of property that was not assessed or was under-assessed, for any reason, on the original roll. A correction is any type of authorized change to an existing assessment except for an under-assessment caused by an error or omission of the assessee.

The following table shows the number of roll changes processed by the assessor for recent years:

ROLL YEAR	ROLL CHANGES
2005-06	432
2004-05	544
2003-04	717
2002-03	590

We reviewed the assessor's procedures for assessment roll changes, as well as numerous roll changes that were actually processed. We found the assessor uses the notice of proposed escape assessment as required by section 531.8, to notify taxpayers of proposed roll changes due to escape assessments. We also found the assessor uses form BOE-66-A, *Notice of Enrollment of Escape Assessment*, which properly notifies taxpayers of the actual enrollment of an escape assessment. However, we did find one area where the assessor could improve the assessment roll change program.

RECOMMENDATION 1: Enroll all escape assessments.

We found that the assessor does not enroll escape assessments for value changes of less than \$5,000. Although section 531.9 permits a county board of supervisors to adopt an ordinance to prohibit an assessor from making an escape assessment where the assessment would result in an amount of taxes due which is less than the cost of assessing and collecting them, where that

amount is less than \$50, the San Benito County Board of Supervisors has not adopted such an ordinance. Therefore, the assessor has no authority to cancel such low-value escape assessments.

If it is not cost-effective to process low-value escape assessments, the assessor should ask the board of supervisors to adopt an ordinance exempting them. Until such an ordinance is adopted, however, the assessor is required by law to enroll all escape assessments, regardless of value.

Low-Value Property Tax Exemption

Section 155.20 authorizes a county board of supervisors to exempt all real property with a base year value, and personal property with a full value, so low that the total taxes, special assessments, and applicable subventions on the property would be less than the assessment and collection costs if the property were not exempt.

Section 155.20(b)(1) provides that a county board of supervisors shall not exempt property with a total base year value or full value of more than \$5,000, or more than \$50,000 in the case of certain possessory interests. A board of supervisors must adopt a low-value property tax exemption before the lien date for the fiscal year to which the exemption is to apply. At the option of the board of supervisors, the exemption may continue in effect for succeeding fiscal years.

San Benito County Resolution No. 2002-135, adopted December 3, 2002, provides that the assessor may exempt from taxation all real property with a base year value and personal property with a full value of five thousand dollars (\$5,000) or less, and taxable possessory interests for temporary and transitory uses in a publicly-owned fairground, convention, or cultural facility having a value not exceeding \$50,000. The resolution complies with Section 155.20. We found the assessor applies the low-value tax exemption to all types of personal property and transitory taxable possessory interests.

In our 2003 survey, we recommended the assessor enroll all supplemental assessments, regardless of change in value. The assessor has not implemented this recommendation; thus, it is repeated below.

RECOMMENDATION 2: Enroll all supplemental assessments, regardless of change in value.

We found the assessor continues to exempt supplemental assessments that are less than \$2,001.

Section 75.55(b) provides that the county board of supervisors may, by ordinance, allow for the cancellation by the assessor of any supplemental assessments where the resulting taxes are less than the cost of assessing and collecting them so long as the amount of taxes does not exceed \$50.00. However, San Benito County does not have such an ordinance. Until the county board of supervisors passes such an ordinance, the assessor is required to follow section 75.14, which provides that all property subject to the assessment limitations of article XIII A of the California Constitution shall be subject to supplemental assessment.

The assessor has no authority to exempt low value supplemental assessments.

Exemptions

Church and Religious Exemptions

Article XIII, section 3(f) of the California Constitution authorizes exemption of property used exclusively for religious worship. This constitutional provision, implemented by section 206, exempts from property taxation buildings, the land on which they are situated, and equipment used exclusively for religious worship, when such property is owned or leased by a church. Property that is reasonably and necessarily required for church parking is also exempt under article XIII, section 4(d) of the California Constitution provided that the property is not used for commercial purposes. The church parking exemption is available for owned or leased property meeting the requirements of section 206.1. The Legislature has implemented the religious exemption in section 207, which exempts property owned by a church and used exclusively for religious worship or for both religious worship and school purposes (excluding property used solely for schools of collegiate grade.)

County assessors administer the church and religious exemptions. The church exemption, including the church parking exemption, requires an annual filing of the exemption claim. The religious exemption requires a one-time filing by the claimant, although the assessor annually mails a form to claimants to confirm continuing eligibility for the exemption. Once granted, the religious exemption remains in effect until terminated or until the property is no longer eligible for the exemption.

The assessor processed 13 church exemption claims and 32 religious exemption claims for the 2006-07 assessment roll.

The following table illustrates the number of properties and the amount of assessed value exempt under the church and religious exemptions for the assessment rolls for recent years:

ROLL YEAR	RELIGIOUS	VALUE	CHURCH	VALUE
2006-07	13	\$4,443,095	32	\$19,155,007
2005-06	13	\$4,565,573	32	\$18,726,767
2004-05	11	\$4,355,290	32	\$18,047,283
2003-04	11	\$4,043,842	32	\$17,462,606
2002-03	9	\$3,105,706	32	\$17,124,420

Our review indicates that the assessor properly processed church and religious exemption claim filings.

Welfare Exemption

Article XIII, section 4(b) of the California Constitution authorizes the Legislature to exempt property used exclusively for religious, hospital or charitable purposes and owned or held in trust by a corporation or other entity. When the Legislature enacted section 214 to implement this

constitutional provision, a fourth purpose (scientific) was added. The welfare exemption from local property taxation is available for property owned and used exclusively for qualifying religious, hospital, scientific, or charitable purposes by organizations formed and operated exclusively for those purposes. Both the organizational and property use requirements must be met for the exemption to be granted.

The welfare exemption is co-administered by the BOE and county assessors. The BOE is responsible for determining whether an organization itself is eligible for the welfare exemption and for issuing *Organizational Clearance Certificates* (OCCs) to qualified organizations. The assessor is responsible for determining whether the use of a qualifying organization's property is eligible for exemption and for approving or denying exemption claims.

The assessor may not grant a welfare exemption on an organization's property unless the organization holds a valid OCC issued by the BOE; and, if the property is a low-income housing property owned and operated by a limited partnership, which has a qualified organization (OCC holder) as the managing general partner, then it must also hold a valid *Supplemental Clearance Certificate* (SCC) issued by the BOE. The assessor may, however, deny an exemption claim, based on non-qualifying use of the property, notwithstanding that the BOE has issued an OCC or SCC to the claimant.

The following table shows welfare exemption data taken from recent assessment rolls:

ROLL YEAR	WELFARE	VALUE
2006-07	91	\$39,070,933
2005-06	89	\$32,037,090
2004-05	91	\$33,844,815
2003-04	90	\$33,142,153
2002-03	93	\$31,690,150

We reviewed a variety of welfare exemption claims, including first-time filings and annual filings. We also reviewed exemption claims for low-income housing property, including properties owned by a limited partnership holding an SCC.

Overall, the assessor is properly administering the welfare exemption program

Homeowners' and Disabled Veterans' Exemptions

The homeowners' exemption is authorized by article XIII, section 3(k) of the California Constitution. This constitutional provision, implemented by section 218, exempts \$7,000 of the full value of a dwelling when occupied by an owner as a principal place of residence.

The disabled veterans' exemption is authorized by article XIII, section 4(a) of the California Constitution. This constitutional provision, implemented by section 205.5, exempts a specified amount of the full value of a dwelling when occupied as a principal place of residence by an

owner who is a qualified disabled veteran (or the veteran's unmarried surviving spouse). The amount of the exemption is \$100,000 or, for qualifying low-income veterans, \$150,000. Both of these amounts are adjusted annually by a cost of living index.

The homeowners' exemption requires a one-time filing. Once granted, the exemption remains in effect until such time as title to the property changes, the owner does not occupy the dwelling as his or her principal place of residence as of the lien date, or the property is otherwise ineligible. The \$100,000 disabled veterans' exemption requires a one-time filing; annual filing is required for the \$150,000 low-income veterans' exemption.

The assessor processed 9,688 homeowners' exemption claims and 36 disabled veterans' exemption claims for the 2006-07 assessment roll. The following table illustrates homeowners' and disabled veterans' exemption data for recent assessment rolls:

ROLL YEAR	HOMEOWNERS'	VALUE	DISABLED VETERANS'	VALUE
2006-07	9,688	\$67,814,600	36	\$3,531,110
2005-06	9,859	\$69,008,800	27	\$2,662,950
2004-05	9,859	\$69,008,200	26	\$2,565,081
2003-04	9,627	\$67,389,000	20	\$1,954,387
2002-03	9,404	\$65,818,800	20	\$1,910,181

We have no recommendations concerning the homeowners' and disable veteran's exemption program.

Assessment Forms

Government Code section 15606 requires the BOE to prescribe and enforce the use of all forms for the assessment of property for taxation.³ For the 2006 lien date, the BOE prescribed 80 forms for use by county assessors and one form for use by county assessment appeals boards. Generally, the assessor may not change, add to, or delete the specific wording in a prescribed form. The assessor may, however, rearrange information on a form, provided that the assessor submits such form to the BOE for review and approval. Assessors may also use county-developed forms to assist them in their assessment duties. However, such forms may not be used as substitutes for BOE-prescribed forms that are required to be used, and no penalty may be imposed upon a property owner for failure to file such form or questionnaire.

To enforce the use of prescribed forms, the BOE annually requires assessors to specify in writing the forms they will use in the succeeding assessment year. Assessors are also required to submit to the BOE copies of the final prints of all prescribed forms they intend to use.

³ Also sections 480(c), 480.2(b), 480.4, and Rules 101 and 171.

We found that the San Benito County Assessor used 58 of the 80 BOE-prescribed forms, and rearranged 4. The assessor has timely provided the BOE with copies of rearranged forms and final prints. We have no recommendations for this program.

ASSESSMENT OF REAL PROPERTY

The assessor's program for assessing real property includes the following principal elements:

- Revaluation of properties that have changed ownership.
- Valuation of new construction.
- Annual review of properties that have experienced declines in value.
- Annual revaluations of certain properties subject to special assessment procedures, such as property subject to California Land Conservation Act contracts, and taxable government-owned property.

Article XIII A of the California Constitution provides that, absent post-1975 new construction or changes in ownership, the taxable value of real property shall not exceed its 1975 full cash value, adjusted annually for inflation by a factor not to exceed 2 percent.

Change in Ownership

Section 60 defines change in ownership as a transfer of a present interest in real property, including the beneficial use thereof, the value of which is substantially equal to the value of the fee simple interest. Sections 61 through 69.5 further clarify what is considered a change in ownership and what is excluded from change in ownership for property tax purposes. Section 50 requires the assessor to establish a base year value for real property upon a change in ownership; a property's base year value is its fair market value on the date of change in ownership.

Discovery, Document Processing, and Valuation

The San Benito County Assessor's primary means of discovering properties that have changed ownership are the review of deeds and other recorded documents. The county recorder requires that form BOE-502-A, *Preliminary Change of Ownership Report* (PCOR), accompany documents submitted for recordation that transfer the ownership of real property. A \$20 fee is added to the recording fee when a PCOR does not accompany transfer documents submitted for recordation. PCORs received by the recorder are collected weekly by staff from the assessor's office.

The following table shows the number of recorded documents reviewed by the assessor in San Benito County for recent roll years:

ROLL YEAR	DOCUMENTS REVIEWED
2006-07	3,056
2005-06	3,872
2004-05	3,989
2003-04	3,707
2002-03	3,380

The recorder scans all recorded documents and forwards them to the assessor. The assessor's staff reviews the scanned documents and prints those documents that potentially relate to a transfer of property. If the printed documents do not have an assessor's parcel number, they are sent to mapping to verify the legal description. The assessor's staff then analyzes each document to determine whether it represents a reappraisable event and, if so, the percentage of ownership transferred.

When a transfer document is received without a PCOR, the assessor sends a form BOE-502-AH, *Change of Ownership Statement* (COS), to the owner. Then the transfer documents, along with the appraisal records, are forwarded to the appraisers.

The following table shows the number of changes in ownership in San Benito County for recent roll years:

ROLL YEAR	CHANGES IN OWNERSHIP
2005-06	1,323
2004-05	1,641
2003-04	1,400
2002-03	1,375
2001-02	1,293

We found the assessor establishes the correct base year value according to sections 110 and 110.1, and uses valid appraisal techniques. He also correctly values partial interest transfers and applies the annual inflation adjustment properly.

Legal Entity Ownership Program (LEOP)

Section 64 provides that certain transfers of ownership interests in a legal entity constitute a change in ownership of all real property owned by the entity and its subsidiaries. Rule 462.180 interprets and clarifies section 64, providing examples of transactions that either do or do not constitute a change in entity control and hence either do or do not constitute a corresponding change in ownership of the real property owned by the entity. Discovery of these types of changes in ownership is difficult for assessors because ordinarily there is no recorded notice of the real property transfer.

To help assessors, the BOE's LEOP unit investigates and verifies changes in entity control and legal ownership reported by legal entities, transmitting to each county a listing, with corresponding property schedules, of legal entities that have reported a change in control under section 64(c) or change in ownership under section 64(d). However, many of the acquiring entities do not provide information sufficient to identify the real property. Because of the limited data provided by many entities, assessors should independently research each entity's property holdings to determine whether all affected parcels have been identified and properly reappraised.

We reviewed all five legal entities reported to the assessor as having experienced a change in control since our 2003 survey. We found the assessor took appropriate action in reviewing and reappraising the real property parcels owned by these entities.

New Construction

Section 70 defines newly constructed property, or new construction, as: (1) any addition to real property since the last lien date; or (2) any alteration of land or improvements since the last lien date that constitutes a major rehabilitation of the property or converts the property to a different use. Further, section 70 establishes that any rehabilitation, renovation, or modernization that converts an improvement to the substantial equivalent of a new improvement, constitutes a major rehabilitation of the improvement. Section 71 requires the assessor to determine the full cash

value of newly constructed real property on each lien date while construction is in progress and on its date of completion, and provides that the full cash value of completed new construction becomes the new base year value of the newly constructed property.

Rules 463 and 463.500 clarify the statutory provisions of sections 70 and 71, and Assessors' Handbook Section 502, *Advanced Appraisal*, Chapter 6, provides guidance for the assessment of new construction.

There are several statutory exclusions from what constitutes new construction; sections 70(c), (d), and (e), and sections 73 through 74.7 address these exclusions.

Discovery

Building permits are the assessor's primary means of discovering assessable new construction. There are three building permit-issuing agencies in San Benito County: the cities of Hollister and San Juan Bautista, and the San Benito County Planning and Building Department. The assessor's office receives permits from all three issuing agencies.

The following is a table indicating the total number of permits reported to the assessor by permit-issuing agencies in recent years:

ROLL YEAR	SAN BENITO COUNTY	HOLLISTER	SAN JUAN BAUTISTA	TOTAL
2006-07	270	130	30	430
2005-06	400	200	75	675
2004-05	400	225	40	665
2003-04	435	550	40	1,025
2002-03	350	500	100	950

The permits are reviewed by the assistant assessor and forwarded to an appraiser to estimate any value contribution.

The assessor also discovers new construction during field canvassing by appraisers, during field reviews of changes in ownership of real property, and by reviewing business property statements. When new construction is noted on form BOE-571-L, *Business Property Statement* (BPS), the auditor-appraiser sends a copy of the BPS Schedule B to the real property appraisal staff.

The assessor's office receives all building permits issued in the county, including all non-assessable work, such as repairs and replacements. The permit-issuing agencies encode the nature of the work indicated on all building permits, enabling the assessor to filter permits that do not represent assessable new construction. Appraisers are responsible for preparing the sketches of new construction and attaching them to the property record.

The assessor values construction in progress as of the lien date, values completed new construction as of the date of completion, and with the exception of low-value supplemental assessments applies the appropriate supplemental assessments.

We found no problems with the assessor's new construction program.

Declines in Value

Section 51 requires the assessor to enroll on the lien date an assessment that is the lesser of a property's factored base year value (FBYV) or its current full cash value, as defined in section 110. Thus, if a property's full cash value falls below its FBYV on any given lien date, the assessor must enroll that lower value. If, on a subsequent lien date, a property's full cash value rises above its FBYV, then the assessor must enroll the FBYV.

The following table shows the number of decline-in-value assessments processed by the San Benito County Assessor in recent years:

ROLL YEAR	DECLINE-IN-VALUE ASSESSMENTS	REDUCTION IN ASSESSED VALUE
2006-07	82	\$2,642,142
2005-06	118	\$3,323,726
2004-05	123	\$3,364,883
2003-04	199	\$1,343,275
2002-03	214	\$4,638,001

The assessor tracks all properties with enrolled values below the FBYV. Property records are tagged for easy identification and assessments are annually reviewed to ensure the appropriate value is enrolled. We reviewed ten decline-in-value properties and found them to be in compliance with applicable statutes.

In our 2003 survey report, we recommended the assessor include the FBYV on the decline-in-value notice as required by section 619(c). The assessor has not implemented this recommendation; thus, it is repeated below.

RECOMMENDATION 3: Include the factored base year value on the decline-in-value notice, as required by section 619(c).

The assessor's notice of taxable values sent to taxpayers whose properties have received an increase in their decline-in-value assessment does not include the FBYV. The assessor indicated that his computer system is still incapable of incorporating the FBYV into the notice of taxable values.

Section 619(c) provides that in cases where there is an increase in the value of a decline-in-value property, the assessor's notification to the taxpayer must include the FBYV of the property. This

requirement does not apply to increases that reflect the inflation rate pursuant to subdivision (b) of section 2 of article XIII A of the California Constitution.

It is important that the assessor's notice of taxable values include all the required elements of section 619. While the notice includes the required information on assessment appeals and stipulations, it falls short of complying with section 619(c) by not including the FBVY. This information is beneficial because it enhances taxpayer understanding of the decline-in-value process and helps the taxpayer determine whether the new value is correct.

If the assessor's computer system is incapable of providing the required information on the notice, then the assessor should pursue other means of complying with the statutory provision. In our prior survey, we suggested providing the information in a cover letter.

In any case, the assessor should conform to the provisions of section 619(c) by including the FBVY in the notice of taxable value sent to a taxpayer whose property has received an increase in its decline-in-value assessment.

California Land Conservation Act Properties

Pursuant to the California Land Conservation Act (CLCA) of 1965, agricultural preserves may be established by a city or county for the purpose of identifying areas within which the city or county will enter into agricultural preserve contracts with property owners.

Property owners who place their lands under contract agree to restrict the use of such lands to agriculture and other compatible uses; in exchange, the lands are assessed at a restricted value. Lands under contract are valued for property tax purposes by a method that is based upon agricultural income-producing ability (including income derived from compatible uses, e.g., hunting rights and communications facilities). Although such lands must be assessed at the lowest of the restricted value, current market value, or FBVY, the restricted value typically is the lowest.

Sections 421 through 430.5 prescribe the method of assessment for land subject to agricultural preserve contracts. Assessors' Handbook Section 521, *Assessment of Agricultural and Open-Space Properties* (AH 521), provides guidance for the appraisal of these properties.

Most of the rural property in San Benito County consists of rangeland and irrigated pastureland. The bulk of the agricultural revenue generated in San Benito County is derived from vegetable and row crops, nursery stock, and wine grapes.

For the 2006-07 tax roll, San Benito County had approximately 584,000 acres encumbered by CLCA contracts, about 65 percent of the entire acreage of the county. This total includes approximately 7,300 acres in nonrenewal status. The total assessed restricted value for CLCA land and living improvements for 2006-07 was approximately \$155 million.

Valuation of CLCA Property

The assessor uses an automated computer system to annually calculate restricted values. Pursuant to sections 75.14 and 52(a), the assessor does not issue supplemental assessments for restricted land. No contracts have been cancelled in recent years.

Homesites

Section 428 provides that the restricted valuation standard for CLCA land does not apply to residences or the site of a residence. AH 521 provides that "even though it might be highly unlikely (or impossible where local zoning regulations forbid the separate parcelization and/or sale of a homesite on an agricultural property) for the homesite to actually be bought and sold in the marketplace, the homesite must be valued as though it were a separate appraisal unit and traded in that manner."⁴ In other words, the homesite must be valued at the lesser of the FBV or the fair market value of a comparable, unrestricted, homesite. We found that this is the assessor's policy and practice for homesites on parcels not in nonrenewal status.

In our 2003 survey, we recommended the assessor adjust the restricted acreage valuation to allow for the homesite acreage. The assessor has made this adjustment for most CLCA properties but continues to include the homesite value as part of the restricted value when calculating properties in nonrenewal. Therefore, we repeat this recommendation later in this report.

Income and Expenses

The income to be capitalized is the economic net income attributable to the land determined, whenever possible, by the analysis of rents received in the area for similar lands in similar use. To determine net income, the appraiser must estimate the future gross income the land can be expected to produce, and subtract from that estimate the allowable cash expenses (except property taxes) necessary to maintain this income. The gross income is primarily from agricultural production, but it also includes income from any compatible uses actually occurring, such as lease payments for oil or gas exploration rights, communication facility sites, and recreational uses such as hunting or fishing. There are no limits placed upon the income to be capitalized unless the contract contains a provision establishing a minimum annual income per acre.

Since the income to be capitalized in the valuation of open-space properties is the net income attributable to the land, the expenses necessary to maintain this income and the portion of the income attributable to improvements must be subtracted from the expected gross income prior to capitalization. The type of expenses deducted, and to some extent the amount of the deductions, will depend upon the composition of the gross income. For example, a gross income derived from cash rents will generally require fewer adjustments than a gross income derived from share rents, and, while a management charge is generally applicable to both income streams, this charge will normally be less in cash rental analysis. In addition to the expenses that are incurred for the creation and maintenance of the income, the property owner is entitled to a fair return on

⁴ *Assessment of Agricultural and Open-Space Properties*, October 2003, page II-51.

the value of the improvements that are necessary to produce the income and the return of (recapture) the value of such improvements.

The assessor values grazing land, cropland, and vineyards and orchards based on the amount of cash rent paid per acre. The assessor recognizes expenses; however, we were unable to determine the basis of the expenses or what was included in those expenses. Therefore, this is part of our recommendation.

Capitalization Rates

Section 423(b) prescribes the composition of the capitalization rate to be used in determining CLCA-restricted land values. It requires that the capitalization rate shall be the sum of the following components:

- An interest component annually determined and announced by the BOE;
- A risk component based on the location and characteristics of the land, the crops to be grown thereon and the provisions of any lease or rental agreement to which the land is subject;
- A component for property taxes; and
- A component for amortization of any investment in perennials over their estimated economic life when the total income from land and perennials other than timber exceeds the yield from other typical crops grown in the area.

The assessor utilizes appropriate capitalization rates, including a component for risk, when determining the restricted values of CLCA properties.

AH 521, pages II-26 through II-30, provides that the size of the risk component will vary according to what risks have already been considered in the development of the income to be capitalized. For dry graze land and irrigated land, the assessor has determined that risk components of 0.75 percent and 1 percent, respectively, are appropriate. The risk component used for trees and vines is 1.25 percent. The assessor adds an additional 0.25 percent risk in certain areas of the county due to saltwater intrusion.

We found the assessor complies with most applicable statutes. However, we found several areas that need improvement.

RECOMMENDATION 4: Improve the California Land Conservation Act assessment program by: (1) using current production, income, and expense data in the annual valuation; (2) documenting expense sources and identifying what is included in expenses; (3) using an appropriate income stream when valuing restricted orchards and vineyards; (4) valuing commercial use portions of restricted property using an economic commercial site rent; and (5) calculating nonrenewal values in accordance with section 428.

Use current production, income, and expense data in the annual valuation.

The assessor used a three-year commodity price average from 2001 to 2003 to value CLCA orchards for 2006; the same three-year average was used in 2004. Based on the 2005 San Benito County Crop report, the three-year gross income average for all grapes was significantly more than the three-year average used in 2004, which resulted in lower income estimates that do not reflect market value.

We also found that the assessor's estimates for production from trees and vines had not been updated since 2004. The 2005 crop report indicates the production for all trees and vines was significantly higher in 2005 than in 2004.

Section 423(a) sets the fundamental criteria for the determination of the income to be capitalized for the valuation of CLCA properties. It states that the income to be capitalized is the economic net income attributable to the land determined, whenever possible, by the analysis of rents received for similar land with a similar use (§423(a)(1)).

The assessor's practice of using outdated market data can result in the use of income estimates that do not reflect market value, which in turn may result in incorrect assessments for CLCA properties.

Document expense sources and identify what is included in expenses.

In our 2003 survey, we recommended the assessor deduct a charge from the gross rent for the return on, and return of, an investment in nonliving improvements. We also recommended the assessor deduct a charge for return of irrigation wells. Currently, the assessor uses an expense ratio for vineyards and orchards, but we were unable to determine the basis for that ratio or whether it involved a "return on and of" the improvements.

Section 423(a)(3) provides that those expenditures to be charged against income must be only those expenses that are ordinary and necessary in the production and maintenance of the revenue. We could find no documentation for the expenses used in the valuation of tree and vine properties or other properties. Without documenting such expenses, neither the assessor nor the taxpayer knows whether the expenses are ordinary and necessary to maintain the income stream.

We also found that the assessor uses a high expense ratio in the income approach for all CLCA tree and vine properties, which appears to be unreasonable. Our review of the income and

expenses reported by property owners and the expenses used by assessors in surrounding counties indicates a more modest expense ratio.

AH 521, pages I-44 through I-46, provides that economic expenses should be determined through the analysis of several owner-operator statements representative of the entire group. It further provides that, due to the difficulty of this type of analysis, rental information and expenses from properties of similar use and capability may be obtained from other counties. The assessor provided no documentation or studies to support the high expense ratio.

The assessor's use of an undocumented and above-market expense ratio results in a substantial understatement of net income and a resulting underassessment of CLCA properties.

Use an appropriate income stream when valuing restricted orchards and vineyards.

In our 2003 survey, we recommended the assessor use an appropriate income stream to value trees and vines. We repeat this recommendation. The assessor uses a straight-line declining income premise to value orchards and vineyards in all stages of production.

AH 521, page I-85, describes the procedure for capitalizing tree and vine income. The appropriate method depends primarily on the shape of the anticipated income stream. The income stream varies with the stage of production or life cycle of the crop: (1) a period of development, when production (income stream) commences and rises; (2) a period of maturity, when production remains relatively stable; and (3) a period of decline, when production drops as the improvements near the end of their economic lives.

We agree with the assessor that most vineyards and orchards in San Benito County are replanted before reaching the declining stage of production. However, using a straight-line declining income premise during the developmental and maturity stages of production may understate the value of the orchard or vineyard and undervalue trees and vines in early to mid-life production.

Value commercial use portions of restricted property using an economic commercial site rent.

We found the assessor values sites for compatible commercial uses by capitalizing rents for agricultural land. If a portion of a restricted property is used by the owner for a permitted compatible commercial use (for example, a cold storage or produce-packing shed; a greenhouse for nursery stock; or a winery) the assessor, in accordance with AH 521, pages II-16 through II-17, must value that portion used for the commercial enterprise by capitalizing a commercial economic rent using the open-space capitalization rate. The estimate of the economic rent can be made either by using actual rents of comparable commercial sites or by multiplying the market value of comparable commercial land by a market-derived capitalization rate.

The assessor's practice of using agricultural land rents to value sites for permitted compatible commercial uses has resulted in under-assessments.

Calculate nonrenewal values in accordance with section 428.

We found the assessor includes the homesite value as part of the restricted value that is deducted from the base year value for nonrenewal value estimates. Section 426 and AH 521 set forth the manner in which nonrenewal values are determined. Section 428 provides that the provisions of section 426 shall not apply to any residence, or to an area of reasonable size used as a site for such a residence.

By including the homesite value as part of the restricted value, the assessor has incorrectly assessed these properties.

Taxable Government-Owned Properties

Article XIII, section 3 of the California Constitution exempts from property taxation any property owned by local governments, except as provided in article XIII, section 11. Section 11 provides that land, and improvements thereon, located outside a local government's or local government agency's boundaries are taxable at a restricted value if the property was taxable at the time of acquisition. Improvements that were constructed to replace improvements that were taxable when acquired are also taxable. These lands and taxable improvements are commonly referred to as taxable government-owned properties.

For the 2006-07 assessment roll, the assessor enrolled 12 taxable government-owned properties with a total assessed value of approximately \$965,000.

The assessor determines the taxable status of government-owned properties at the time of acquisition by comparing tax-rate area maps to the county's list of government agencies located within each tax-rate area. One appraiser is responsible for valuing these taxable government-owned properties.

We reviewed all 12 taxable government-owned properties and found the assessor does not issue supplemental assessments for taxable government-owned properties pursuant to section 75.14. While we found the assessor correctly values improvements on taxable government-owned properties, we do note, however, one incorrect assessment procedure.

RECOMMENDATION 5: Establish base year values for taxable government-owned properties according to BOE guidelines.

The assessor establishes the base year value of taxable government-owned properties at the time of acquisition based on the current market value, which is contrary to BOE guidelines.

Letter To Assessors No. 2000/037, dated June 23, 2000, *Guidelines for the Assessment of Taxable Government-Owned Properties*, provides that base year values for taxable government-owned properties acquired after March 1, 1975, are established at either the lower of current market value or the restricted value as of the date of change in ownership. The assessor's practice has resulted in over-assessments of taxable government-owned properties because, in most cases, at the time of transfer, the restricted value was lower than the market value.

Taxable Possessory Interests

A taxable possessory interest results from the possession, a right to possession, or a claim to a right to possession of publicly owned real property, in which the possession provides a private benefit to the possessor and is independent, durable, and exclusive of rights held by others. The assessment of a taxable possessory interest in tax-exempt publicly-owned property is based on the value of the rights held by the possessor; the value of the rights retained by the public owner is almost always tax exempt.

For the 2006-07 assessment roll, the assessor enrolled 168 taxable possessory interests with a total assessed value of \$14,079,001. The types of taxable possessory interests assessed are public airport hangars, cable television franchises, employee housing, grazing permits, and one carnival at the fairgrounds. Taxable possessory interests are enrolled on the unsecured roll.

On December 3, 2002, the San Benito County Board of Supervisors passed Resolution No. 2002-135, which exempts taxable possessory interests for temporary and transitory uses in publicly-owned fairgrounds and convention or cultural facilities having a value not exceeding \$50,000.

In our 2003 survey, we recommended the assessor enroll supplemental assessments for changes in ownership of taxable possessory interests. The assessor has not implemented this recommendation. Neither has the assessor implemented our prior recommendation to revalue taxable possessory interests at the end of the anticipated term of possession. Both recommendations are repeated below.

RECOMMENDATION 6: Revise the taxable possessory interest assessment program by: (1) enrolling supplemental assessments for changes in ownership of taxable possessory interests, and (2) reappraising taxable possessory interests only for renewal as provided in section 61(b)(2).

Enroll supplemental assessments for changes in ownership of taxable possessory interests.

The assessor fails to process supplemental assessments for changes in ownership of taxable possessory interests.

Section 75.14 provides that all property subject to the assessment limitations of article XIII A of the California Constitution shall be subject to supplemental assessment. Therefore, taxable possessory interests, which are real property, are subject to supplemental assessment.

The assessor's practice is contrary to statute and results in incorrect assessments.

Reappraise taxable possessory interests only for renewal as provided in section 61(b)(2).

We found the assessor revalues taxable possessory interests without a stated term of possession each year regardless of the reasonably anticipated term of possession used in the initial valuation of that taxable possessory interest. For example, the assessor may use a reasonably anticipated

term of possession of ten years to value a typical month-to-month lease; such an interest is, nonetheless, revalued each year on the lien date.

Section 61(b)(2) provides that the renewal or extension of a taxable possessory interest during the reasonably anticipated term of possession used to value the interest by the assessor does not result in a change in ownership until the end of the anticipated term of possession. Thus, in our example, if a taxable possessory interest is originally valued using a reasonably anticipated term of ten years, then that interest, even though renewed monthly under a month-to-month tenancy, should not be reappraised until the expiration of the ten year term, assuming there is no change in tenants. The assessor's practice is contrary to statutory provisions.

Leasehold Improvements

Leasehold improvements are all improvements or additions to leased property that have been made by the tenant or lessee. Such improvements can be secured to the real property or assessed to the lessee on the unsecured assessment roll.

Commercial, industrial, and other types of income-producing properties require regular monitoring by the assessor because, as tenants change over a period of time, they may add and remove improvements that may result in a changed use of the property. These changes must, by law, be reflected in the property's assessment if they qualify as new construction.

When real property is reported on form BOE-571-L, *Business Property Statement* (BPS), coordination between the real property and business property divisions of the assessor's office is important. The reported cost should be examined by both an appraiser in the real property division and an auditor-appraiser in the business property division. The divisions should determine the proper classification of the property to ensure appropriate assessment by each division and avoid escapes and double assessments. The assessor must determine whether costs are for repair and maintenance and are, therefore, not assessable, whether additions are properly classified as structural improvements or fixtures, and/or if additions are properly enrolled.

Discovery

The San Benito County Assessor does not have written procedures for the assessment of leasehold improvements; however, there is a system in place allowing for the discovery of new leasehold improvements. The auditor-appraiser forwards copies of BPSs to the appropriate real property appraiser for analysis when structural leasehold improvements are reported. Responsibility for the assessment of structural leasehold improvements generally falls upon the real property appraiser. However, there are situations where the auditor-appraiser and the appraiser will confer to make a final decision.

The primary discovery tools for leasehold improvements are BPSs and building permits. Other discovery tools include surveys of tenants in commercial buildings, review of leases, field observation, and audits of business records. All reported costs that are not clear as to classification are investigated.

Typically, improvements reported by the tenant are assessed to the tenant, but improvements installed and paid by the landlord are assessed to the landlord.

Valuation

Structural leasehold improvements are assessed at the lower of the factored base year value or the current market value, and fixtures are valued at current market value. Fixtures are assigned an economic life ranging from 5 to 15 years depending on the type of fixture. Fixtures are not subject to supplemental assessments. With the exception of low-value supplemental assessments, the assessor correctly makes supplemental assessments for structural leasehold improvements.

Cell towers are classified as fixtures and are annually reassessed on the unsecured roll. The assessor properly enrolls cell tower sites leased, but not owned, by state assessees.

The assessor has an effective program for valuing leasehold improvements.

Water Company Properties

Taxable water company property may include the property of private water companies, mutual water companies, and some property of government-owned water systems. Each type of water company property presents different assessment issues. There are no mutual water companies or regulated private water companies in San Benito County.

Private Water Systems Not Regulated by the California Public Utilities Commission (CPUC)

Unregulated private water systems are similar to regulated water companies in that they are usually privately owned by individuals or corporations and are operated on a for-profit basis to supply water to commercial developments, such as manufactured home parks, resorts, and campgrounds. However, they do not sell water for profit to customers in the same manner as a regulated water company.

We reviewed a list of water supply sources obtained from the State Department of Health Services' Division of Drinking Water and Environmental Management. We found no problems with the assessor's assessment of unregulated private water companies.

Municipal Water Systems

Article XIII, section 3(b) of the California Constitution exempts from taxation property owned by a local government and located within its boundaries. Such property includes both property owned by city water departments and located within city limits and property owned by water districts and located within district boundaries. When a local government entity owns property located outside of the government's agency's or district's boundaries, this exemption does not apply.

We found no problems with the assessment of taxable municipal water systems properties.

Mineral Properties

By statute and case law, mineral properties are taxable as real property. They are subject to the same laws and appraisal methodology as all real property in the state. However, there are three mineral-specific property tax rules that apply to the assessment of mineral properties. They are Rule 468, *Oil and Gas Producing Properties*, Rule 469, *Mining Properties*, and Rule 473, *Geothermal Properties*. These rules are interpretations of existing statutes and case law with respect to the assessment of mineral properties.

Mining Properties

The total assessed value of mineral properties in San Benito County in 2006 was \$81,942,000, with the bulk of the value attributable to one major property. The properties are appraised by the assistant assessor. In reviewing the appraisal records and discussions with the assessor's staff, we found that the assessor did an audit of the income and expense reports of the major sand and gravel operation in the county.

Our 2003 survey recommended the assessor consider changes to the proved reserves when determining adjusted base year mineral rights values and making adjustments to base year values. This recommendation has not been implemented.

RECOMMENDATION 7: Determine and compare adjusted base year values with current market values with respect to mineral properties.

For one mineral property, the assessor estimated the current market value each year, but did not track the adjusted base year value of the appraisal unit. The current market value must be compared to the adjusted base year value to determine which to enroll. Rule 469(e)(2)(C) provides that declines in property value must be recognized when the current market value of the appraisal unit is lower than the adjusted base year value of the same appraisal unit. This requires that the adjusted base year value and the current market value be determined each year for the comparison to be made.

Rule 469(e) requires that the assessor consider the adjusted base year value of proved reserves and account for any additions or reductions to those reserves in the value estimate of mineral properties. There is no indication in the appraisal records that changes in adjusted base year value of proved reserves are tracked either for depletion or other changes. For one property, the assessor estimated the life of the property for each of the last seven years as being ten years. Other properties showed similar treatment. If this is the case, then there should be additions to proved reserves each year to account for the additional year of anticipated life. In addition, the base year value of the property should be adjusted first, to account for production in the prior year, and then, it should be adjusted to account for added reserves.

Petroleum Properties

San Benito County has ten petroleum properties with an assessed value of \$715,000. The assessor uses a procedure to value the petroleum properties from the 1972 version of the BOE's handbook section on assessing petroleum property. This procedure provided appraisers with a

quick method of estimating values before the advent of personal computers. The technique assumes that the petroleum price and operating costs do not change over the life of the property. The procedure requires looking up values from graphs and tables that may require interpolation to derive results. The results provide similar results to the income approach detailed in the more recent version of Assessors' Handbook Section 566, *Assessment of Petroleum Properties* (1999). Except for the one area noted below, the assessor's petroleum program is in compliance with the current guidelines.

RECOMMENDATION 8: Apply Rule 468 to properties by tracking adjusted base year values of petroleum properties.

The assessor does not track the adjusted base year values of petroleum properties. The assessor's procedure estimates only the property's current market value, which is then enrolled. Article XIII A, section 2 of the California Constitution provides that property shall be assessed at the lesser of its current market value or adjusted base year value. Recent increases in petroleum prices have caused the current market value of many properties in the state to exceed the adjusted base year value, requiring that the adjusted base year value be enrolled. Rule 468 provides the mechanics of making adjustments to the base year value to account for production and additions to reserves. The adjusted base year value for petroleum properties must be determined each year and compared to the current market value of the property. The lower value should be enrolled. Failure to make this comparison could result in overassessments.

ASSESSMENT OF PERSONAL PROPERTY AND FIXTURES

The assessor's program for assessing personal property and fixtures includes the following major elements:

- Discovery and classification of taxable personal property and fixtures.
- Mailing and processing of annual property statements and questionnaires.
- Annual revaluation of taxable personal property and fixtures.
- Auditing taxpayers whose assessments are based on information provided in property statements.

In this section of the survey report, we review the assessor's programs for conducting audits, processing business property statements, valuing business property, and discovering and assessing leased equipment, manufactured homes, aircraft, and vessels.

Audit Program

A comprehensive audit program is essential to the successful administration of any tax program that relies on information supplied by taxpayers. A good audit program discourages deliberate underreporting, helps educate those property owners who unintentionally misreport, and provides the assessor with additional information to make fair and accurate assessments.

The following table shows the total number of audits completed over recent roll years:

DESCRIPTION	2005-06	2004-05	2003-04	2002-03	2001-02
Audit Workload					
Mandatory	19	19	24	17	23
Nonmandatory	1	52	36	51	38
Total Audits Scheduled	20	71	60	68	61
Unfinished From Prior Year	1	2	5	0	0
Total Audit Workload	21	73	65	68	61
Audits Completed					
Mandatory	14	51	24	14	23
Nonmandatory	1	21	39	49	38
Total Audits Completed	15	72	63	63	61
Audits Carried Forward	6	1	2	5	0

Mandatory Audits

Pursuant to section 469, audits are mandatory for taxpayers reporting business tangible personal property and trade fixtures valued at \$400,000 or more for four consecutive years.⁵

The assessor is currently completing an average of approximately 25 mandatory audits per year. All mandatory audits scheduled during the 2005-06 fiscal year were completed or had timely waivers filed. The assessor has an effective mandatory audit program.

Nonmandatory Audits

A nonmandatory audit program serves several purposes in the assessment of personal property. Besides helping to mitigate taxpayer reporting errors, a nonmandatory program also allows for the investigation and resolution of special problems uncovered during the processing of property statements.

The assessor understands the importance of maintaining a nonmandatory audit program; over the preceding five years he has completed an average of 30 nonmandatory audits per year.

Statute of Limitations

Section 532 provides that when the assessor discovers through an audit that property has escaped assessment, an assessment of such property must be enrolled within four years after July 1 of the

⁵ Effective January 1, 2009, the criteria for determining mandatory audits changed to require the assessor to conduct audits, equal to 75% of the number of audits completed during 2002-2003 through 2005-2006, with at least 50% to be selected from a pool of those taxpayers with the largest assessments.

assessment year during which the property escaped assessment. If the assessor cannot complete an audit within the prescribed time, the assessor may request, pursuant to section 532.1, a waiver of the statute of limitations from the taxpayer to extend the time for making an assessment.

The assessor requests waivers of the statute of limitations from taxpayers when he anticipates that an audit will not be completed in a timely manner.

Audit Quality

An audit should follow a standard format so that the auditor-appraiser may easily determine whether the property owner has correctly reported all taxable property. Audit narratives and summaries should include adequate documentation, full value calculations, reconciliation of the fixed assets totals to the general ledger and financial statements, review of asset invoices, reconciliation between reported and audit amounts, an analysis of expense accounts, and an analysis of depreciation and obsolescence factors that may affect the value of the business property.

The assessor has an excellent audit program. Both mandatory and nonmandatory audits were accurate, well-documented, and supported by a comprehensive audit check list and a thorough audit narrative. We found the assessor's audit program to be properly administered and in compliance with applicable provisions of the law.

Business Property Statement Processing Program

Section 441 requires each person owning taxable personal property (other than a manufactured home) having an aggregate cost of \$100,000 or more to annually file a property statement with the assessor; other persons must file a property statement if requested by the assessor. Property statements form the backbone of the business property assessment program. Several variants of the property statement address a variety of property types, including commercial, industrial, and agricultural property, vessels, and certificated aircraft.

The following table displays the assessor's workload of secured and unsecured business property statements (BPSs) and assessments for the 2006-07 assessment roll:

TYPE OF PROPERTY STATEMENTS	BPSs	SECURED VALUE	BPSs	UNSECURED VALUE	TOTAL ASSESSED VALUE
General Business	480	\$83,745,260	1,271	\$154,524,608	\$238,269,868
Agricultural	490	\$17,905	100	\$4,065,404	\$4,083,309
Apartments	168	\$322,590	0	0	\$322,590
Manufactured Homes	358	\$12,846,660	0	0	\$12,846,660
Vessels	0	0	427	\$5,848,852	\$5,848,852
General Aircraft	0	0	209	\$7,329,931	\$7,329,931
Leased Equipment	0	0	190	\$9,750,548	\$9,750,548
Financial Institutions	0	0	5	\$787,665	\$787,665
Totals	1,496	\$96,932,415	2,202	\$182,307,008	\$279,239,423

All BPSs are reviewed and processed by the assistant assessor, then keyed into the computer system by the clerical staff.

We found that the assessor checks for completeness, changes in control and ownership, authorized signatures, full disclosure of property based on prior years' statements, and leased equipment disclosures.

Discovery

The discovery of taxable property is an essential function of the county assessor. It is a difficult but necessary task to maintain accurate, up-to-date listings of businesses. Taxpayer self-reporting and annual canvassing are the principal means of discovering assessable business property. Other means of discovery include reviewing fictitious business name filings, newspaper articles and advertisements, city and county business licenses, referrals from other counties, and BOE notifications.

Direct Billing

Many assessors utilize an assessment procedure called "direct billing" or "direct assessment." It is a method of assessing qualified lower-value business accounts without the annual filing of a BPS. The assessor establishes an initial value and continues it for several years. Property statement filings or field reviews are required periodically. Examples of businesses that may be included in a direct billing program are small apartments, barber shops, beauty parlors, coin-operated laundrettes, small cafes and small restaurants, and professional firms with small equipment holdings.

The San Benito County Assessor utilizes a direct billing program to process the assessment of business property located within apartment complexes. The assessor establishes an initial value and continues it for several years. The direct billing program is beneficial to taxpayers and the assessor. It results in a reduction of paperwork for taxpayers and fewer BPSs that must be processed annually by the assessor's staff.

The accounts that are direct-billed are generally stable and have less than \$50,000 in full cash value of reportable business property. Every four years the assessor sends a BPS to direct-billed taxpayers to determine if there have been any substantial changes of business property, including increased or decreased amounts of equipment, sales of business, changes in ownership, or changes in location. If the accounts are determined to no longer be suitable for direct billing, the accounts are converted back to regular annual-filing accounts.

We found the assessor employs effective methods for the processing of BPSs, including the use of a direct billing program for apartment business property.

Business Equipment Valuation

Assessors value most machinery and equipment using business property value factors. Value factors are derived by combining price index factors (trend factors) with percent good factors. A value indicator is obtained by multiplying a property's historical (acquisition) cost by an appropriate value factor.

Section 401.5 provides that the BOE shall issue information that promotes uniformity in appraisal practices and assessed values. Pursuant to that mandate, the BOE annually publishes Assessors' Handbook Section 581, *Equipment Index and Percent Good Factors* (AH 581).

The assessor has adopted the price indices and percent good factors recommended by the California Assessors' Association (CAA). The price indices parallel the indices published in AH 581 with the exception of specific types of equipment, for example, pagers, facsimile equipment, and photocopiers, that the CAA recommends should not be trended.

We found no problems with the assessment of business equipment.

Leased Equipment

The business property division is responsible for the discovery, valuation, and assessment of leased equipment. This type of property is one of the more difficult to assess correctly. Common problems include difficulty in establishing taxability and taxable situs, reporting errors by lessees and lessors, valuation (whether the value of the equipment should be the lessor's cost or the cost for the consumer to purchase), and double or escape assessments resulting from lessor and lessee reporting. These issues are discussed in detail in Assessors' Handbook Section 504, *Assessment of Personal Property and Fixtures*.

When property is leased, both lessors and lessees should report such property on their annual property statements. At the end of such a lease, the lessee may acquire the equipment or return it to the lessor. Procedures should be in place to identify the disposition of leased equipment upon

termination of a lease. We found that the assessor has sufficient procedures for tracking and cross-checking leased equipment.

We found the San Benito County Assessor correctly distinguishes between leases and conditional sales contracts, and follows correct appraisal and assessment procedures. Additionally, we reviewed several files of lessors and lessees for valuation methods, completeness of reporting, tracking of equipment, assessee designation, leased equipment reported by state assessee(s), and expired lease disposition, as well as processing procedures. We found no problems.

Manufactured Homes

A "manufactured home" is defined in Health and Safety Code sections 18007 and 18008, and statutes prescribing the method of assessing manufactured homes are contained in sections 5800 through 5842. A manufactured home is subject to local property taxation if sold new on or after July 1, 1980, or if its owner requests conversion from the vehicle license fee to local property taxation. Manufactured homes should be classified as personal property and enrolled on the secured roll.

In San Benito County, the 2006-07 assessment roll includes 358 manufactured homes with an assessed value of \$14,138,784. The majority of the homes are located in the county's two mobilehome parks.

Based on a market study, the assessor has concluded there is no or very minimal site value included in the sale prices of manufactured homes in his county. Therefore, the assessor enrolls the sale price as the base year value of the manufactured home. In addition, the assessor does consider value indicators developed from cost guides, including the BOE unit cost factors.

We found the assessor's manufactured home program to be primarily in compliance with property tax law. However, we did discover the assessor is not annually adjusting base year values for inflation on manufactured homes.

RECOMMENDATION 9: Assess manufactured homes at the lesser of fair market value or factored base year value.

The assessor establishes the base year values for manufactured homes at their fair market values, which are typically based on the sale prices. This procedure is supported by a market study. The base year values are not annually adjusted for inflation, and the roll values remain unchanged until a reappraisable event occurs. However, a review of manufactured home sales shows an increase in sale prices over the last ten years.

Section 5813 provides that the taxable value of a manufactured home is the lesser of its factored base year value or its full cash value as of the lien date, considering reductions in value due to damage, destruction, depreciation, or other factors causing a decline in value. If the local market reflects an upward trend in values of manufactured homes, the assessor should be applying the inflation factor annually.

Failure to index the base year values in a rising market results in underassessments.

Aircraft

There are three types of aircraft that are subject to personal property taxation: certificated or commercial aircraft, general aircraft, and historical aircraft. The number of private aircraft in San Benito County has gradually decreased over the last five years; there are no certificated aircraft.

The following table contains annual statistics related to aircrafts subject to personal property taxation within San Benito County:

ROLL YEAR	GENERAL AIRCRAFT	VALUE	HISTORICAL AIRCRAFT	VALUE	TOTAL AIRCRAFT	VALUE
2006-07	120	\$6,951,689	89	\$378,242	209	\$7,329,931
2005-06	129	\$7,376,047	93	\$529,801	222	\$7,905,848
2004-05	149	\$7,876,183	82	\$291,721	231	\$8,167,904
2003-04	159	\$9,461,538	74	\$607,790	233	\$10,069,328
2002-03	180	\$8,472,909	70	\$355,911	250	\$8,828,820

General Aircraft

General aircraft are privately owned aircraft that are used for pleasure or business but that are not authorized to carry passengers, mail, or freight on a commercial basis (general aircraft contrast with certificated aircraft, discussed below). Section 5363 requires the assessor to determine the market value of all aircraft according to standards and guidelines prescribed by the BOE. Section 5364 requires the BOE to establish such standards. On January 10, 1997, the BOE-approved the *Aircraft Bluebook-Price Digest (Bluebook)* as the primary guide for valuing aircraft, with the *Vref Aircraft Value Reference (Vref)* as an alternative guide for aircraft not listed in the *Bluebook*.

For the 2006-07 assessment roll, the assessor enrolled 120 general aircraft with a total assessed value of \$6,951,689. The assessor uses the required primary value guide for the appraisal of general aircraft.

In the aircraft files we reviewed, the appraisals were reasonable and well documented. Values are adjusted downward by 10 percent, as directed in Letter To Assessors No. 97/03. Additionally, adjustments are made for sales tax, interior and exterior condition, engine hours, airframe hours, and variances from listed value guide systems and equipment.

The assessor mails annual aircraft statements to owners of all aircraft with situs in the county. The statement has a filing deadline of April 1, and the assessor imposes a 10 percent penalty for failure to file or late filing for statements received after May 7.

Historical Aircraft

Aircraft of historical significance can be exempted from taxation if they meet certain requirements. Section 220.5 defines "aircraft of historical significance" as (1) an aircraft that is an original, restored, or replica of a heavier than air, powered aircraft 35 years or older; or (2) any aircraft of a type or model of which there are fewer than five such aircraft known to exist worldwide.

The historical aircraft exemption is not automatic. Each year, the owner of a historical aircraft must submit an affidavit on or before 5:00 p.m., February 15, paying a filing fee of \$35 upon the initial application for exemption. Along with these requirements, aircraft of historical significance are exempt only if the following conditions are met: (1) the assessee is an individual owner who does not hold the aircraft primarily for purposes of sale, (2) the assessee does not use the aircraft for commercial purposes or general transportation, and, (3) the aircraft was available for display to the public at least 12 days during the 12-month period immediately preceding the lien date for the year for which exemption is claimed.

The assessor granted 77 historical aircraft exemptions for the 2006-07 assessment roll. We found the assessor is in compliance with all statutory requirements and that the historical aircraft program is consistent with BOE policy.

Vessels

Assessors must annually appraise all vessels at market value. The primary sources used for the discovery of assessable vessels include State Department of Motor Vehicles (DMV) reports, referrals from other counties, and information provided by the vessel owners themselves.

For the 2006-07 assessment roll the assessor valued 427 vessels with a total assessed value of \$5,848,852. Typically, the assessor uses the *ABOS Marine Blue Book* as the primary source for vessel valuation. Occasionally, additional market data is obtained from the Internet.

The chart below presents the assessor's vessel statistics for recent years:

ROLL YEAR	VESSELS	ASSESSED VALUES
2006-07	427	\$5,848,852
2005-06	418	\$5,558,338
2004-05	436	\$5,307,878
2003-04	422	\$5,174,335
2002-03	878	\$6,669,400

Our review indicates no problems in the assessor's vessel assessment program.

APPENDIXES

A. County-Assessed Properties Division Survey Group

San Benito County

Chief

Dean Kinnee

Survey Program Director:

Arnold Fong

Principal Property Appraiser

Survey Team Supervisor:

Sally Boeck

Supervising Property Appraiser

Survey Team Leader:

Glenn Danley

Senior Specialist Property Appraiser

Survey Team:

Jim McCarthy

Senior Petroleum and Mining Appraisal Engineer

David Yeung

Senior Specialist Property Appraiser

Zella Cunningham

Associate Property Appraiser

Jay Price

Associate Property Appraiser

Dale Mueller

Assistant Property Appraiser

David Barbeiro

Associate Property Auditor-Appraiser

Zbigniew Radko

Associate Property Auditor-Appraiser

Chandra Williams

Tax Auditor

B. Assessment Sampling Program

The need for compliance with the laws, rules, and regulations governing the property tax system and related assessing⁶ activities is very important in today's fiscally stringent times. The importance of compliance is twofold. First, the statewide maximum tax rate is set at one percent of taxable value. Therefore, a reduction of local revenues occurs in direct proportion to any undervaluation of property. (It is not legally allowable to raise the tax rate to compensate for increased revenue needs.) Secondly, with a major portion of every property tax dollar statewide going to public schools, a reduction in available local property tax revenues has a direct impact on the State's General Fund, which must backfill any property tax shortfall.

The BOE, in order to meet its constitutional and statutory obligations, focuses the assessment sampling program on a determination of the full value of locally taxable property and eventually its assessment level. The purpose of the BOE's assessment sampling program is to review a representative sampling of the assessments making up the local assessment rolls, both secured and unsecured, to determine how effectively the assessor is identifying those properties subject to revaluation and how well he/she is performing the valuation function.

The BOE's County-Assessed Properties Division (CAPD) conducts the assessment sampling program on a five-year cycle for the 11 largest counties and cities and counties and on either a random or as needed basis for the other 47 counties. This sampling program is described as follows:

A representative random sampling is drawn from both the secured and unsecured local assessment rolls for the counties to be surveyed.

These assessments are stratified into 18 value strata (nine secured and nine unsecured.)⁷

From each stratum a random sampling is drawn for field investigation, sufficient in size to reflect the assessment level within the county.

For purposes of analysis, after the sample is drawn, the items are identified and placed into one of the five categories listed below:

Base year properties. Those properties the county assessor has not reappraised for either an ownership change or new construction during the period between the lien date five years prior to the roll currently being sampled and the lien date of the current sampling.

⁶ The term "assessing" as used here includes the actions of local assessment appeals boards, the boards of supervisors when acting as boards of equalization, and local officials who are directed by law to provide assessment-related information.

⁷ The nine value strata are \$1 to \$99,999; \$100,000 to \$199,999; \$200,000 to \$499,999; \$500,000 to \$999,999; \$1,000,000 to \$1,999,999; \$2,000,000 to \$19,999,999; \$20,000,000 to \$99,999,999; \$100,000,000 to \$249,999,999; and \$250,000,000 and over.

Transferred properties. Those properties last reappraised because of an ownership change that occurred during the period between the lien date five years prior to the roll currently being sampled and the lien date of the current sampling.

New construction. Those properties last reappraised to reflect new construction that occurred during the period between the lien date five years prior to the roll currently being sampled and the lien date of the current sampling.

Non-Proposition 13 properties. Those properties not subject to the value restrictions of article XIII A, or those properties that have a unique treatment. Such properties include mineral-producing property, open-space property, Timberland Production Zone property, and taxable government-owned property.

Unsecured properties. Those properties on the unsecured roll.

From the assessment universe in each of these 18 value strata (nine strata on both secured and unsecured local rolls), a simple random sampling is drawn for field investigation that is sufficient in size to reflect the assessment practices within the county. A simple nonstratified random sampling would cause the sample items to be concentrated in those areas with the largest number of properties and might not adequately represent all assessments of various types and values. Because a separate sample is drawn from each stratum, the number of sample items from each category is not in the same proportion to the number of assessments in each category. This method of sample selection causes the raw sample, that is, the "unexpanded" sample, to over-represent some assessment types and under-represent others. "Expanding" the sample data eliminates this apparent distortion in the raw sampling; that is, the sample data in each stratum are multiplied by the ratio of the number of assessments in the particular stratum to the number of sample items selected from the stratum. Once the raw sampling data are expanded, the findings are proportional to the actual assessments on the assessment roll. Without this adjustment, the raw sampling would represent a distorted picture of the assessment practices. This expansion further converts the sampling results into a magnitude representative of the total assessed value in the county.

The field investigation objectives are somewhat different in each category, for example:

Base year properties -- for those properties not reappraised during the period between the lien date five years prior to the roll currently being sampled and the lien date of the current sampling: was the value properly factored forward (for the allowed inflation adjustment) to the roll being sampled? Was there a change in ownership? Was there new construction? Or, was there a decline in value?

Transferred properties -- for those properties where a change in ownership was the most recent assessment activity during the period between the lien date five years prior to the roll currently being sampled and the lien date of the current sampling: do we concur that a reappraisal was needed? Do we concur with the county assessor's new value? Was the base year value trended forward (for the allowed inflation adjustment)? Was there a subsequent ownership change? Was there subsequent new construction? was there a decline in value?

New construction -- for those properties where the most recent assessment activity was new construction added during the period between the lien date five years prior to the roll currently being sampled and the lien date of the current sampling: do we concur that the construction caused a reappraisal? Do we concur with the value enrolled? Was the base year amount trended forward properly (for the allowed inflation adjustment)? Was there subsequent new construction? Or, was there a decline in value?

Non-Prop 13 properties -- for properties not covered by the value restrictions of article XIII A, or those properties that have a unique treatment, do we concur with the amount enrolled?

Unsecured properties -- for assessments enrolled on the unsecured roll, do we concur with the amount enrolled?

The results of the field investigations are reported to the county assessor, and conferences are held to review individual sample items whenever the county assessor disagrees with the conclusions.

The results of the sample are then expanded as described above. The expanded results are summarized according to the five assessment categories and by property type and are incorporated into the published assessment practices survey report.

The primary use of the assessment sampling is to determine an assessor's eligibility for the cost reimbursement authorized by section 75.60. During the course of the sampling activity, the assessment practices survey team may also discover recurring causes for the differences in the opinion of taxable value that arise between the assessor and the CAPD. These discoveries may lead to recommendations in the survey report that would not have otherwise been made.

C. Relevant Statutes and Regulations

Government Code

15640. Survey by BOE of county assessment procedures.

- (a) The State Board of Equalization shall make surveys in each county and city and county to determine the adequacy of the procedures and practices employed by the county assessor in the valuation of property for the purposes of taxation and in the performance generally of the duties enjoined upon him or her.
- (b) The surveys shall include a review of the practices of the assessor with respect to uniformity of treatment of all classes of property to ensure that all classes are treated equitably, and that no class receives a systematic overvaluation or undervaluation as compared to other classes of property in the county or city and county.
- (c) The surveys may include a sampling of assessments from the local assessment rolls. Any sampling conducted pursuant to subdivision (b) of Section 15643 shall be sufficient in size and dispersion to insure an adequate representation therein of the several classes of property throughout the county.
- (d) In addition, the BOE may periodically conduct statewide surveys limited in scope to specific topics, issues, or problems requiring immediate attention.
- (e) The BOE's duly authorized representatives shall, for purposes of these surveys, have access to, and may make copies of, all records, public or otherwise, maintained in the office of any county assessor.
- (f) The BOE shall develop procedures to carry out its duties under this section after consultation with the California Assessors' Association. The BOE shall also provide a right to each county assessor to appeal to the BOE appraisals made within his or her county where differences have not been resolved before completion of a field review and shall adopt procedures to implement the appeal process.

15641. Audit of records; appraisal data not public.

In order to verify the information furnished to the assessor of the county, the BOE may audit the original books of account, wherever located, of any person owning, claiming, possessing or controlling property included in a survey conducted pursuant to this chapter when the property is of a type for which accounting records are useful sources of appraisal data.

No appraisal data relating to individual properties obtained for the purposes of any survey under this chapter shall be made public, and no state or local officer or employee thereof gaining knowledge thereof in any action taken under this chapter shall make any disclosure with respect thereto except as that may be required for the purposes of this chapter. Except as specifically provided herein, any appraisal data may be disclosed by the BOE to any assessor, or by the BOE or the assessor to the assessee of the property to which the data relate.

The BOE shall permit an assessee of property to inspect, at the appropriate office of the BOE, any information and records relating to an appraisal of his or her property, including "market data" as defined in Section 408. However, no information or records, other than "market data," which relate to the property or business affairs of a person other than the assessee shall be disclosed.

Nothing in this section shall be construed as preventing examination of that data by law enforcement agencies, grand juries, boards of supervisors, or their duly authorized agents, employees, or representatives conducting an investigation of an assessor's office pursuant to Section 25303, and other duly authorized legislative or administrative bodies of the state pursuant to their authorization to examine that data.

15642. Research by BOE employees.

The BOE shall send members of its staff to the several counties and cities and counties of the state for the purpose of conducting that research it deems essential for the completion of a survey report pursuant to Section 15640 with respect to each county and city and county. The survey report shall show the volume of assessing work to be done as measured by the various types of property to be assessed and the number of individual assessments to be made, the responsibilities devolving upon the county assessor, and the extent to which assessment practices are consistent with or differ from state law and regulations. The report may show the county assessor's requirements for maps, records, and other equipment and supplies essential to the adequate performance of his or her duties, the number and classification of personnel needed by him or her for the adequate conduct of his or her office, and the fiscal outlay required to secure for that office sufficient funds to ensure the proper performance of its duties.

15643. When surveys to be made.

(a) The BOE shall proceed with the surveys of the assessment procedures and practices in the several counties and cities and counties as rapidly as feasible, and shall repeat or supplement each survey at least once in five years.

(b) The surveys of the 10 largest counties and cities and counties shall include a sampling of assessments on the local assessment rolls as described in Section 15640. In addition, the BOE shall each year, in accordance with procedures established by the BOE by regulation, select at random at least three of the remaining counties or cities and counties, and conduct a sample of assessments on the local assessment roll in those counties. If the BOE finds that a county or city and county has "significant assessment problems," as provided in Section 75.60 of the Revenue and Taxation Code, a sample of assessments will be conducted in that county or city and county in lieu of a county or city and county selected at random. The 10 largest counties and cities and counties shall be determined based upon the total value of locally assessed property located in the counties and cities and counties on the lien date that falls within the calendar year of 1995 and every fifth calendar year thereafter.

(c) The statewide surveys which are limited in scope to specific topics, issues, or problems may be conducted whenever the BOE determines that a need exists to conduct a survey.

(d) When requested by the legislative body or the assessor of any county or city and county to perform a survey not otherwise scheduled, the BOE may enter into a contract with the requesting local agency to conduct that survey. The contract may provide for a BOE sampling of assessments on the local roll. The amount of the contracts shall not be less than the cost to the BOE, and shall be subject to regulations approved by the Director of General Services.

15644. Recommendations by BOE.

The surveys shall incorporate reviews of existing assessment procedures and practices as well as recommendations for their improvement in conformity with the information developed in the surveys as to what is required to afford the most efficient assessment of property for tax purposes in the counties or cities and counties concerned.

15645. Survey report; final survey report; assessor's report.

- (a) Upon completion of a survey of the procedures and practices of a county assessor, the BOE shall prepare a written survey report setting forth its findings and recommendations and transmit a copy to the assessor. In addition the BOE may file with the assessor a confidential report containing matters relating to personnel. Before preparing its written survey report, the BOE shall meet with the assessor to discuss and confer on those matters which may be included in the written survey report.
- (b) Within 30 days after receiving a copy of the survey report, the assessor may file with the BOE a written response to the findings and recommendations in the survey report.

The BOE may, for good cause, extend the period for filing the response.

- (c) The survey report, together with the assessor's response, if any, and the BOE's comments, if any, shall constitute the final survey report. The final survey report shall be issued by the BOE within two years after the date the BOE began the survey. Within a year after receiving a copy of the final survey report, and annually thereafter, no later than the date on which the initial report was issued by the BOE and until all issues are resolved, the assessor shall file with the board of supervisors a report, indicating the manner in which the assessor has implemented, intends to implement or the reasons for not implementing, the recommendations of the survey report, with copies of that response being sent to the Governor, the Attorney General, the State Board of Equalization, the Senate and Assembly and to the grand juries and assessment appeals boards of the counties to which they relate.

15646. Copies of final survey reports to be filed with local officials.

Copies of final survey reports shall be filed with the Governor, Attorney General, and with the assessors, the boards of supervisors, the grand juries and assessment appeals boards of the counties to which they relate, and to other assessors of the counties unless one of these assessors notifies the State Board of Equalization to the contrary and, on the opening day of each regular session, with the Senate and Assembly.

Revenue and Taxation Code**75.60. Allocation for administration.**

(a) Notwithstanding any other provision of law, the board of supervisors of an eligible county or city and county, upon the adoption of a method identifying the actual administrative costs associated with the supplemental assessment roll, may direct the county auditor to allocate to the county or city and county, prior to the allocation of property tax revenues pursuant to Chapter 6 (commencing with Section 95) and prior to the allocation made pursuant to Section 75.70, an amount equal to the actual administrative costs, but not to exceed 5 percent of the revenues that have been collected on or after January 1, 1987, due to the assessments under this chapter. Those revenues shall be used solely for the purpose of administration of this chapter, regardless of the date those costs are incurred.

(b) For purposes of this section:

- (1) "Actual administrative costs" includes only those direct costs for administration, data processing, collection, and appeal that are incurred by county auditors, assessors, and tax collectors. "Actual administrative costs" also includes those indirect costs for administration, data processing, collections, and appeal that are incurred by county auditors, assessors, and tax collectors and are allowed by state and federal audit standards pursuant to the A-87 Cost Allocation Program.
- (2) "Eligible county or city and county" means a county or city and county that has been certified by the State Board of Equalization as an eligible county or city and county. The State Board of Equalization shall certify a county or city and county as an eligible county or city and county only if both of the following are determined to exist:
 - (A) The average assessment level in the county or city and county is at least 95 percent of the assessment level required by statute, as determined by the BOE's most recent survey of that county or city and county performed pursuant to Section 15640 of the Government Code.
 - (B) For any survey of a county assessment roll for the 1996-97 fiscal year and each fiscal year thereafter, the sum of the absolute values of the differences from the statutorily required assessment level described in subparagraph (A) does not exceed 7.5 percent of the total amount of the county's or city and county's statutorily required assessed value, as determined pursuant to the BOE's survey described in subparagraph (A).
- (3) Each certification of a county or city and county shall be valid only until the next survey made by the BOE. If a county or city and county has been certified following a survey that includes a sampling of assessments, the BOE may continue to certify that county or city and county following a survey that does not include sampling if the BOE finds in the survey conducted without sampling that there are no significant assessment problems in the county or city and county. The BOE shall, by regulation, define "significant assessment problems" for purposes of this section, and that definition shall include objective standards to measure performance. If the BOE finds in the survey conducted without sampling that significant assessment problems exist, the BOE shall conduct a sampling of assessments in that county or city and county to determine if it is an eligible county or city and county. If a county or city and county is not certified by the BOE, it may request a new survey in advance of the regularly scheduled survey, provided that it agrees to pay for the cost of the survey.

Title 18, California Code of Regulations

Rule 370. Random selection of counties for representative sampling.

- (a) **SURVEY CYCLE.** The BOE shall select at random at least three counties from among all except the 10 largest counties and cities and counties for a representative sampling of assessments in accordance with the procedures contained herein. Counties eligible for random selection will be distributed as equally as possible in a five-year rotation commencing with the local assessment roll for the 1997–98 fiscal year.
- (b) **RANDOM SELECTION FOR ASSESSMENT SAMPLING.** The three counties selected at random will be drawn from the group of counties scheduled in that year for surveys of assessment practices. The scheduled counties will be ranked according to the size of their local assessment rolls for the year prior to the sampling.
- (1) If no county has been selected for an assessment sampling on the basis of significant assessment problems as provided in subdivision (c), the counties eligible in that year for random selection will be divided into three groups (small, medium, and large), such that each county has an equal chance of being selected. One county will be selected at random by the BOE from each of these groups. The BOE may randomly select an additional county or counties to be included in any survey cycle year. The selection will be done by lot, with a representative of the California Assessors' Association witnessing the selection process.
- (2) If one or more counties are scheduled for an assessment sampling in that year because they were found to have significant assessment problems, the counties eligible for random selection will be divided into the same number of groups as there are counties to be randomly selected, such that each county has an equal chance of being selected. For example, if one county is to be sampled because it was found to have significant assessment problems, only two counties will then be randomly selected and the pool of eligible counties will be divided into two groups. If two counties are to be sampled because they were found to have significant assessment problems, only one county will be randomly selected and all counties eligible in that year for random selection will be pooled into one group.
- (3) Once random selection has been made, neither the counties selected for an assessment sampling nor the remaining counties in the group for that fiscal year shall again become eligible for random selection until the next fiscal year in which such counties are scheduled for an assessment practices survey, as determined by the five-year rotation. At that time, both the counties selected and the remaining counties in that group shall again be eligible for random selection.
- (c) **ASSESSMENT SAMPLING OF COUNTIES WITH SIGNIFICANT ASSESSMENT PROBLEMS.** If the BOE finds during the course of an assessment practices survey that a county has significant assessment problems as defined in Rule 371, the BOE shall conduct a sampling of assessments in that county in lieu of conducting a sampling in a county selected at random.
- (d) **ADDITIONAL SURVEYS.** This regulation shall not be construed to prohibit the BOE from conducting additional surveys, samples, or other investigations of any county assessor's office.

Rule 371. Significant assessment problems.

- (a) For purposes of Revenue and Taxation Code Section 75.60 and Government Code Section 15643, "significant assessment problems" means procedure(s) in one or more areas of an assessor's assessment

operation, which alone or in combination, have been found by the BOE to indicate a reasonable probability that either:

- (1) the average assessment level in the county is less than 95 percent of the assessment level required by statute; or
 - (2) the sum of all the differences between the BOE's appraisals and the assessor's values (without regard to whether the differences are underassessments or overassessments), expanded statistically over the assessor's entire roll, exceeds 7.5 percent of the assessment level required by statute.
- (b) For purposes of this regulation, "areas of an assessor's assessment operation" means, but is not limited to, an assessor's programs for:
- (1) Uniformity of treatment for all classes of property.
 - (2) Discovering and assessing newly constructed property.
 - (3) Discovering and assessing real property that has undergone a change in ownership.
 - (4) Conducting mandatory audits in accordance with Revenue and Taxation Code Section 469 and Property Tax Rule 192.
 - (5) Assessing open-space land subject to enforceable restriction, in accordance with Revenue and Taxation Code Sections 421 et. seq.
 - (6) Discovering and assessing taxable possessory interests in accordance with Revenue and Taxation Code Sections 107 et. seq.
 - (7) Discovering and assessing mineral-producing properties in accordance with Property Tax Rule 469.
 - (8) Discovering and assessing property that has suffered a decline in value.
 - (9) Reviewing, adjusting, and, if appropriate, defending assessments for which taxpayers have filed applications for reduction with the local assessment appeals board.
- (c) A finding of "significant assessment problems," as defined in this regulation, would be limited to the purposes of Revenue and Taxation Code Section 75.60 and Government Code Section 15643, and shall not be construed as a generalized conclusion about an assessor's practices.

ASSESSOR'S RESPONSE TO BOE'S FINDINGS

Section 15645 of the Government Code provides that the assessor may file with the BOE a response to the findings and recommendation in the survey report. The survey report, the assessor's response, and the BOE's comments on the assessor's response, if any, constitute the final survey report.

The San Benito County Assessor's response begins on the next page. The BOE has no comments on the response.

TOM J. SLAVICH
COUNTY ASSESSOR

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COUNTY OF SAN BENITO

March 6, 2009

RECEIVED

MAR 23 2009

County-Assessed Properties Division
State Board of Equalization

Mr. Dean R. Kinnee, Chief
County - Assessed Properties Division
State Board of Equalization
P.O. Box 942877
Sacramento, CA 94279-0062

Dear Mr. Kinnee:

Pursuant to Section 15645 of the California Government Code, the following is my response to the findings and recommendations contained in the San Benito County Assessment Practices Survey and sampling of the 2006-2007 assessment roll.

These periodic surveys are an essential and useful tool, which provides constructive observation and suggestions for the proper administration of the varied functions carried out by the Assessor's Office. I wish to express my appreciation for the professional and courteous manner in which the State Board of Equalization Survey Team conducted the survey and sampling of our office.

I also want to acknowledge and commend my staff for their dedication, hard work and professionalism in providing excellent service to the taxpayers of San Benito County, and in providing an equitable and quality assessment roll, which is evident by the 99.57% overall assessment ratio as determined by your sampling program.

Sincerely,

Tom J. Slavich
San Benito County Assessor

SAN BENITO COUNTY ASSESSMENT PRACTICES SURVEY

RECOMMENDATION 1: Enroll all escape assessments.

Response: We concur and plan to implement a low value escape assessment ordinance pursuant to section 531.9.

RECOMMENDATION 2: Enroll all supplemental assessments, regardless of change in value.

Response: We concur and plan to implement a low value supplemental assessment ordinance pursuant to section 75.55(b).

RECOMMENDATION 3: Include the FBVY on the decline-in-value notice, as required by Section 619(c).

Response: We concur. Our old computer system was not capable of providing this information. However, the new property tax computer system will have the capability to include the FBVY on the decline-in-value notice, as required by section 619(c).

RECOMMENDATION 4: Improve the CLCA assessment program by: (1) using current production, income, and expense data in the annual valuation; (2) documenting expense sources and identifying what is included in expenses; (3) using an appropriate income stream when valuing restricted orchards and vineyards; (4) valuing commercial use portions of restricted property using an economic commercial site rent; and (5) calculating nonrenewal values in accordance with section 428.

Response:

- 1) We concur and plan to review the production, income and expense data in the annual valuation.
- 2) We concur and plan to document expense sources and identify what is included in expenses.
- 3) This recommendation has been a subject of debate between our office and the State Board of Equalization for many years. San Benito County horticultural practices differ from most other areas of the State in that trees or vines are individually replaced as needed and reflect a fairly level income stream until the entire orchard or vineyard becomes uneconomical and then removed for another use of the land. In addition, actual tree and vine acreage in the county has decreased from 14,400 acres in 1976 to 10,800 acres in 1986, to 9,100 acres in 1996 and 7,800 acres in 2006 substantiating our reasoning for using the straight line method to discount the income stream.

4) We concur and plan to value commercial use portions of restricted property using an economic commercial site rent.

5) We concur and with our new computer property tax system we will be able to calculate nonrenewal values in accordance with section 428.

RECOMMENDATION 5: Establish base year values for taxable government-owned properties according to Board guidelines.

Response: We concur and have already implemented this recommendation .

RECOMMENDATION 6: Revise the taxable possessory interest assessment program by: (1) enrolling supplemental assessments for changes in ownership of taxable possessory interests, and (2) reappraising taxable possessory interests only for renewal as provided in section 61(b)(2).

Response: 1) We concur. However, it is difficult and time consuming to determine when possessory interests actually undergo a change in ownership. To accomplish this task we need timely and accurate information from the public agencies involved. We plan to implement this recommendation as time and staffing levels allow.

2) We concur and plan to reappraise taxable possessory interests only for renewal as provided in section 61(b)(2).

RECOMMENDATION 7: Determine and compare adjusted base year values with current market values with respect to mineral properties.

Response: We concur and will pursue implementation in making such a determination and comparison as time, workload constraints and staffing levels allow.

RECOMMENDATION 8: Applying Rule 468 to properties by tracking adjusted base year values of petroleum properties.

Response: We concur and will pursue implementing this tracking process with available staff as time permits.

RECOMMENDATION 9: Assess manufactured homes at the lesser of fair market value or factored base year value.

Response: We concur and will pursue implementation of this recommendation.